

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

ASHBY HENDERSON, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

v.

**BNY MELLON, NATIONAL
ASSOCIATION**

Defendant

Case No. 1:15-cv-10599-DLC

**MOTION TO FILE DOCUMENTS UNDER SEAL AND TO GRANT
PERMISSION TO NOT SERVE SEALED DOCUMENTS
ON DEFENDANT’S COUNSEL**

McTigue Law LLP moves for permission, under L.R. 7.2, and the Court’s standing procedural civil order regarding the sealing of court documents (“Standing Order”), to file *McTigue Law LLP’s Response to Plaintiffs’ Motion for Award of Attorneys’ Fees, Costs and Incentive Payments*, and certain exhibits to the accompanying *Declaration of J. Brian McTigue* under seal. Counsel makes this request because the documents may contain attorney work product and/or attorney-client communications, and may implicate sensitive or confidential information pursuant to the Protective Order in this litigation. See ECF No. 86, December 23, 2015. The undersigned will file a redacted version of the Response through ECF.

Pursuant to Rule 7.2, McTigue Law respectfully suggests that these documents be impounded until further order of the Court. McTigue Law further respectfully suggests that if the Court decides that impoundment is no longer appropriate, that these documents be returned to the undersigned Counsel.

Further, McTigue Law moves that it be granted permission not to serve counsel of record for Defendants the requested sealed documents, as they contain work product and/or attorney-client communications.

In the Settlement Agreement before the Court, Defendants agreed not oppose directly or indirectly Class Counsel's request for an award of fees up to one third of the settlement fund and expenses then estimated to be \$390,000. Class Action Settlement Agreement, ¶ 5.01, ECF No. 578-1 (May 14, 2019). Before the Court is the dispute over plaintiff counsel attorney fees not to exceed one third of the settlement fund, and plaintiff counsel expense reimbursement.

WHEREFORE, the undersigned request that the Court enter an order directing that the designated documents be filed under seal.

Date: August 30, 2019

Respectfully submitted,

/s/ J. Brian McTigue
J. Brian McTigue (*pro hac vice*)
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Attorney for Plaintiff Henderson

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(A)(2)

I certify pursuant to Local Rule 7.1(a)(2) that I emailed representatives of the Class Counsel for the Settlement Class, John Roddy of Bailey & Glasser LLP, and Derek Howard, regarding relief sought in the foregoing motion. Attorney Howard responded for Class Counsel. Attorney Howard's response expressed concern that Defendants' counsel may obtain copies of the unredacted documents containing sensitive work product. Otherwise, Attorney Howard's response was ambiguous to the McTigue Law, noting that the Court has unsealed almost all documents filed under seal in this case. McTigue Law sought clarification, but no response has been received at the time of filing.

/s/ J. Brian McTigue
J. Brian McTigue

CERTIFICATE OF SERVICE

I hereby Certify that, on the date set for below, the foregoing document was filed by operation of the Court's ECF filing system, and that copies were served upon all counsel of record by operation of the Court's ECF notification system.

August 30, 2019

\s/ J. Brian McTigue
J. Brian McTigue